

House Bill 10

By: Representatives Schofield of the 63<sup>rd</sup>, Davis of the 87<sup>th</sup>, Scott of the 76<sup>th</sup>, and Jackson of the 68<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Code Section 35-1-19 of the Official Code of Georgia Annotated, relating to the  
2 prohibition of disclosure of arrest booking photographs, so as to strengthen protections for  
3 individuals who have not been convicted of crimes; to provide for a short title; to provide for  
4 a definition; to provide for removal procedures for remove-for-pay publications and  
5 websites; to provide for related matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 This Act shall be known and may be cited as the "Georgia Booking Photo Privacy Protection  
9 Act."

10 **SECTION 2.**

11 Code Section 35-1-19 of the Official Code of Georgia Annotated, relating to the prohibition  
12 of disclosure of arrest booking photographs, is amended as follows:

13 "35-1-19.

14 (a) As used in this Code section, the term:

15 (1) 'Booking photograph' ~~'booking photograph'~~ means a photograph or image of an  
16 individual taken by an arresting law enforcement agency for the purpose of identification  
17 or taken when such individual was processed into a jail.

18 (2) 'Remove-for-pay publication or website' means any publication or public website that  
19 charges a fee or requires other valuable consideration for the removal, deletion, or  
20 alteration of booking photographs, or that uses such photographs for profit or  
21 advertisement revenue.

22 (b) Except as provided in Code Section 50-18-77 and booking photographs required for  
23 publication as set forth in Titles 16 and 40, for the ~~State Sexual Offender Registry~~ state  
24 sexual offender registry, and for use by law enforcement agencies for administrative  
25 purposes, ~~an arresting law enforcement agency or agent thereof shall not post booking~~  
26 ~~photographs to or on a website~~ no arresting law enforcement agency or its agents shall post  
27 booking photographs to public websites.

28 (c) An arresting law enforcement agency shall not provide or make available a copy of a  
29 booking photograph in any format to a person or entity requesting such photograph if:

30 (1) Such booking photograph may be placed in a remove-for-pay publication or ~~posted~~  
31 ~~to a website;~~ ~~or transferred to a person to be placed in a publication or posted to a~~  
32 ~~website;~~ ~~and~~

33 (2) Removal or deletion of such booking photograph from such remove-for-pay  
34 publication or website requires the payment of a fee or other consideration; or

35 (3) The individual depicted in the photograph has not been convicted of the crimes for  
36 which he or she was arrested.

37 (d) Remove-for-pay publications or websites shall be required to:

38 (1) Remove booking photographs without charge if the individual submits evidence of  
39 any of the following:

40 (A) Acquittal of the criminal charge;

41 (B) Non-prosecution of the charge; or

42 (C) Expungement, vacatur, or pardon of the criminal record; and  
43 (2) Complete such removal within seven calendar days of receiving the request and  
44 accompanying documentation.

45 (e) Any individual who ~~When a person~~ requests a booking photograph, ~~he or she~~ shall  
46 submit a statement affirming that the use of such photograph is in compliance with  
47 subsection (c) of this Code section. Any person who knowingly makes a false statement  
48 in requesting a booking photograph shall be guilty of a violation of Code Section 16-10-20.

49 (f) Notwithstanding the provisions of subsections (b) and (c) of this Code section, a law  
50 enforcement agency shall provide a copy of a booking photograph to the individual  
51 depicted in the photograph or his or her legal counsel upon request."

52 **SECTION 3.**

53 This Act shall become effective upon its approval by the Governor or upon its becoming law  
54 without such approval.

55 **SECTION 4.**

56 All laws and parts of laws in conflict with this Act are repealed.